

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling**

**RUBEN RODRIGUEZ,**

Petitioner,

v.

**Civil Action No. 5:23-CV-328**  
Judge Bailey

**R. BROWN, WARDEN, and  
FCI GILMER,**

Respondents.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

The above referenced case is before this Court upon the magistrate judge's recommendation that the case be denied and dismissed with prejudice as to petitioner's First Step Act claim, and dismissed without prejudice for lack of jurisdiction as to petitioner's challenge to sentence validity.

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. ***Thomas v. Arn***, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. ***United***

**States v. Schronce**, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation.

Accordingly, a review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. As such, the magistrate judge's report and recommendation [Doc. 11] is **AFFIRMED**. The petition [Doc. 1] is **DENIED** and **DISMISSED WITH PREJUDICE** as to petitioner's First Step Act Claim, and **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction as to petitioner's challenge to sentence validity.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to petitioner.

**DATED:** February 7, 2024.

A handwritten signature in black ink, appearing to read "John Preston Bailey", with a stylized flourish at the end.

---

**JOHN PRESTON BAILEY**  
**UNITED STATES DISTRICT JUDGE**